

**IN THE
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

ECF CASE

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**CASE NO. 12 cv 75
(DNH/ATB)**

**ALEC J. MEGIBOW, M.D., M.P.H., F.A.C.R.,
individually, and on behalf of all similarly
situated,**

Plaintiff,

-against-

**CARON. ORG, d/b/a/ CARON NEW YORK, Duane
Morris, LLP, WolfBlock LLP and, Master Dana
B. Klinges, Esq.,**

Defendants.

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**DECLARATION OF
ANTHONY M. BENTLEY
IN RESPONSE TO DEFENDANTS'
RULE 12 MOTION FILED 2/13/12**

ANTHONY M. BENTLEY declares pursuant to 28 U.S.C. § 1746 as follows:

1. I am plaintiffs' counsel herein, a member of the bar of this Court, am fully familiar with the facts and proceedings in this case, and I submit this declaration in response to defendant's motion pursuant to Rule 12 filed February 13, 2012.

2. Plaintiffs respond to defendants' present Rule 12 motion pursuant to FRCP Rule 12(d) upon the ground that the former 120 page document, viewed *in toto*, relies principally upon matters "outside the pleading," and all such matters should be either excluded by the Court, or the motion should be treated as defendants' motion for summary judgment.

3. In the event that the Court elects to exclude such matters as extraneous to the complaint herein, the motion must be denied as baseless.

4. In the event that the Court does not elect to exclude those "matters outside" the complaint herein, the "parties must be given a reasonable opportunity to present all material that is pertinent to the motion.

5. Defendant's present motion should therefore be denied without prejudice to resubmission upon such Rule 12(d) treatment as may be deemed appropriate to this Court.

Dated:
New York NY
February 14, 2012

Respectfully submitted,

/s/Anthony M. Bentley
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